

Interagency ADR Working Group Civil Enforcement and Regulatory Section

October, 2007 Initiative

The Civil Enforcement and Regulatory Section (CERS) is prepared to reinitiate a multi-pronged approach that includes the development of consultation teams, educational presentations, workgroups to create and maintain an information network and the Section's reports to the Attorney General, and a steering committee to oversee these activities.

Steering Committee

CERS activities will be coordinated by a Steering Committee. The Steering Committee will oversee the activities of the CERS Consultation Teams and will design products that will support and enhance CERS activities. The Steering Committee will be comprised of volunteers from the CERS membership, FERC's DRS staff, and EPA's ADR staff.

CERS Consultation Teams

To support CERS members, teams of individuals from agencies experienced in ADR program implementation will be established. Each Consultation Team is designed to focus on an area of need identified by CERS members. Two Consultation Teams are proposed: a dispute systems design and implementation issues team and a training and evaluation issues team. Consultation Teams will serve as consultants to member agencies in their ADR program development and, resources allowing, a Team member will be available to serve as a mentor to an individual agency. Steering Committee members will serve as leads for the Consultation Teams which will include members solicited from the broader CERS membership.

Educational Presentations

The Steering Committee will coordinate a series of presentations designed to provide CERS members with information and skills to develop and implement an ADR program. To expeditiously provide Section members with an information base and the skills to design and implement an ADR program, a series of intensive educational presentations and trainings will be held in 2008. These sessions will give a broad overview of the information required to design and implement an ADR Program. Consultation Teams and CERS members will be solicited to take the lead on developing and hosting presentations.

In addition, CERS members will be surveyed to determine supplemental training presentations and focused working sessions which would address additional needs of CERS members. In October, a CERS meeting will be held to review the CERS report that was part of the report newly submitted to the Attorney General, forwarded to the President, and to consider FY 2008 follow-up activities.

The following is a list of educational session topics and trainings performed in past years:

ADR Training

(Full day)

- Range of ADR Processes
- Advantages of using ADR in civil enforcement
- Examples of successful use of ADR
- Demonstration of mediation in enforcement actions

Designing & Implementing an ADR Program

(Two full days
or four half days)

- Dispute System Design
- Methodologies for analyzing a dispute resolution system
- Developing an ADR program implementation plan
- Obtaining resources for ADR programs
- Contracting for external ADR services
- Designing/obtaining & conducting relevant ADR training
- Evaluation of ADR use
- Identifying & managing internal & external ADR professionals
- Marketing an ADR program internally and to the regulated community

In addition to the basic training and focused working sessions held earlier, periodic meetings may be held to provide information and discussion on advanced practice issues identified as important by CERS members. The

following is a list of additional advanced practice issues as topics for discussion and/or further work by the CERS:

- Best ADR practices for government agencies
- Ethical & confidentiality issues
- Designing & running an effective pilot program
- Effective consultation of staff & mentoring of junior ADR professionals
- ADR information tracking & analysis systems
- Establishment of an arbitration program
- Potential legislation & regulation enhancements
- Bench-marking of corporate ADR efforts
- Establishment of a supportive connection with the ADR community

Where relevant, advanced practice sessions may be scheduled to coincide with CERS training and working sessions. As needed, additional working groups may be formed to conduct further work on one or more of these issues.

Section Report to the Attorney General

A CERS Report Workgroup, formed among the Section membership, will continue to solicit information from CERS member agencies and will contribute to the report to the Attorney General. The Report Workgroup will chronicle CERS activities and the progress member agencies have made in establishing their enforcement ADR programs.

Contact

If you or your agency has an interest in a particular topic, or wish to participate as a member of the CERS Steering Committee, please contact Richard L. Miles at Richard.Miles@ferc.gov.

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CONSULTATION TEAMS

What is a Consultation Team?

Many CERS members have said that what would be most helpful to them in their effort to establish the use of ADR in their agency or department is to have someone with an expertise in ADR to work with and consult on an ongoing basis. In response, the CERS Steering Committee has put together a highly experienced group of ADR professionals from throughout the government to assist Section members.

The CERS Consultation Team is available to assist in your efforts to develop and implement the use of ADR in your organization. Following an initial consultation to discuss your unique needs and situation, a specialized team of 2-3 individuals will be put together that has the skills and experience to best assist your efforts.

What Will a Consultation Team Do?

Your specialized Consultation Team will be available to assist you in all aspects of your ADR program efforts. Once established, you will work with your Consultation Team to determine how the Team can best assist you and your agency. Though it is your responsibility to develop and implement your ADR program, Team members will assist you by providing their experience and insights, serving as a reality check and source of ideas, making presentations, and helping you to locate other assistance as needed. In essence, they will serve as your “personal ADR consultant”. If additional ADR program expertise proves useful as your efforts evolve, additional experts may be added to the Team or called in as consultants by Team members to ensure your needs are met.

How do I Request a Consultation Team?

Richard Miles and David Batson, ADR Liaison for EPA’s Office of Enforcement and Compliance Assurance, are the Section contacts for obtaining a Consultation Team. If you are interested in having a Team assist you, or just want to learn more about Consultation Teams, contact Richard Miles at 202/502-8702 or by E-mail at Richard.Miles@ferc.gov, or David at 202/564-5103 or by E-mail at batson.david@epa.gov. When you call, they will set up an initial meeting to discuss your ADR program and needs, then put together a specialized Consultation Team to work with you.

Can I serve on a Consultation Team?

Yes! Many areas of ADR and program development expertise will be needed to fully assist CERS members. If you could provide such expertise, please contact David Batson about being considered as a Consultation team member.